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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.3698 OF 2003
IN
SUIT NO.234 OF 2000

Anila Thakarshi Patel & Anr. ... Plaintiffs

V/s.

Shivlal Keshvaji Patel & ors. ... Defendants

Mr.D.F Sharma for Plaintiffs
Mr.Nitin Vatkhar for Defendant No.8

CORAM: **SMT.NISHITA MHATRE, J.**

DATED: **AUGUST 14, 2006**

P.C.:

. The Plaintiffs have filed the present suit to obtain a 1/5th share in the property owned by Nanji Patel. The Plaintiffs are the grand-daughters of Nanji Patel. Defendant Nos.7 and 12 are the sons of Nanji Patel's from his first wife. Defendant No.8 is the widow of their son, Narayan. The fourth son Prakash has also died and his legal representatives are on record. Defendant No.8 has obtained a decree in a suit for partition being Suit No.2476 of 1990. The Court Receiver has been appointed in that suit. He has been directed to continue in execution by the order of 3.9.1997 and the suit was decreed.

2. The plaintiffs have filed the present suit for claiming 1/5th share in the property of Nanji by setting aside the judgment and decree dated 3.9.1997.

3. Undisputedly, the dispute in the present suit is restricted to Nanji Patel's property. Mr.Sharma appearing for the Plaintiffs contends that the adjoining property is that of Defendant Nos.1 to 6 and if both the suit property and the adjoining property are sold together, the entire property will fetch a better price. According to him, the Defendant Nos.1 to 6 are inclined to sell that property alongwith the suit property.

4. By consent of the plaintiffs and Defendant No.8, the Court Receiver who is already appointed will take charge of the suit property and sell the same.

5. The Court Receiver will invite the bids by way of public auction within four weeks from today. In the event no satisfactory bids are forthcoming within the stipulated period, the Court Receiver may sell the property by private treaty. In the event Defendant Nos.1 to 6 desire to sell their property alongwith the property owned by Nanji Patel (in which the plaintiffs are entitled to a 1/5th share) they may apply to the Court Receiver to sell the same together with Nanji Patel's property i.e., the suit property.

6. It is clarified that the parties to the present suit may also bid for the property.

7. Notice of Motion is disposed off accordingly.